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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,927	02/08/2002	David R. Johnson	T-6069	9391

7590 07/08/2003

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EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 07/08/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/068,927	Applicant(s) JOHNSON ET AL.	
Examiner Walter D. Griffin	Art Unit 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The rejections described in paper no. 3 have been withdrawn in view of the amendment filed on May 23, 2003. Accordingly, the arguments concerning these rejections are moot and will not be addressed.

New rejections follow.

### ***Claim Objections***

Claim 26 is objected to because of the following informalities: The expression "one-dimensional pores" is unnecessarily repeated. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3, 10, 11, 13-15, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calemma et al. (US 6,544,407) in view of EP 0323092 A2.

The Calemma reference discloses a process for preparing hydrocarbon products. The process comprises contacting a C5+ hydrocarbon feed with an isomerization catalyst that contains a metal such as platinum under conditions that result in the conversion of the hydrocarbons. This conversion would necessarily result in some dewaxing and result in a product having a reduced pour point. The feed may be from an F-T process. Since the Calemma reference discloses the use of a C5+ feed, the claimed bulk dewaxing is not distinguished from the process of Calemma. See col. 4, lines 55-67; col. 5, lines 1-53; col. 7, lines 4-38 and 63-67; col. 8, lines 1-55; and col. 12, lines 29-34.

The Calemma reference does not disclose hydrofinishing the product from the initial conversion zone.

The EP 0323092 A2 reference discloses the hydrofinishing of a dewaxed product. The hydrofinishing zone is operated at conditions including pressures ranging from 300 to 1500 psi. The EP reference also discloses the fractionation of the product from the hydrofinishing zone to produce various products. See page 4, lines 31-51 and page 6, lines 26-42.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Calemma by hydrofinishing the product of Calemma as suggested by the EP reference because the daylight stability of the final product will be improved.

Regarding the recovery of the claimed products, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of the references by recovering the claimed products because the EP reference discloses broad ranges for the separated fractions and one would recover any fractions within the disclosed broad ranges.

Claims 4-9, 12, 16-21, and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calemma et al. (US 6,544,407) and EP 0323092 A2 as applied to claims 1-3, 10, 11, 13-15, 22, and 23 above, and further in view of Miller (US 5,135,638).

None of the previously discussed references discloses the use of intermediate pore zeolites or non-zeolitic molecular sieves.

The Miller reference discloses the hydroisomerization of F-T waxes. The process utilizes catalysts that comprise non-zeolitic molecular sieves such as SAPO-11 and intermediate pore zeolites such as ZSM-22. Hydrogenation metals may be added to the catalysts by the method disclosed in US Patent 3,226,339. This patent discloses the non-aqueous addition of the metals. See col. 2, lines 66-68; col. 3, lines 1-6; col. 4, lines 27-35; col. 6, lines 56-68; col. 7, lines 1-5; col. 10, lines 32-44; and col. 13, lines 1-22. See also col. 7, lines 6-23 in US Patent 3,226,339.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the teachings of the previously discussed references by

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utilizing the catalysts disclosed by Miller including those made by the non-aqueous addition of the hydrogenation metal in the hydroisomerization step because the use of such catalysts will result in the production of products with reduced pour points.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

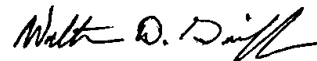
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is 703-305-3774. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-6824. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Walter D. Griffin  
Primary Examiner  
Art Unit 1764

WG  
June 30, 2003